

Introduced by Senator Simitian

February 22, 2005

An act to amend Sections 39630, 39631, and 39632 of, and to amend the heading of Chapter 3.3 (commencing with Section 39630) of Part 2 of Division 26 of, the Health and Safety Code, and to amend Sections 72400, 72410, 72420, 72421, ~~72425~~, 72440, 72441, 72500, 72505, 72520, 72521, 72525, 72540, and 72542 of, ~~and~~ to amend the heading of Division 38 (commencing with Section 72400) and the heading of Division 39 (commencing with Section 72500) of, *and to add Section 72425.5 to*, the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 771, as amended, Simitian. Oceangoing ships.

(1) Existing law prohibits a cruise ship, as defined, from conducting onboard incineration while operating within 3 miles of the California coast.

This bill would also prohibit an oceangoing ship, as defined, from conducting onboard incineration while operating within 3 miles of the California coast.

(2) Existing law regulates the release of graywater, ~~sewage~~, sewage sludge, oily bilgewater, hazardous waste, or other waste by large passenger vessels into the marine waters of the state *and marine sanctuaries. Existing law also regulates, until January 1, 2010, the release of sewage by large passenger vessels into the marine waters of the state.*

This bill would also regulate the release of graywater, sewage, sewage sludge, oily bilgewater, hazardous waste, or other waste by

oceangoing ships, as defined, into the marine waters of the state *and marine sanctuaries*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Chapter 3.3 (commencing with
2 Section 39630) of Part 2 of Division 26 of the Health and Safety
3 Code is amended to read:

4
5 CHAPTER 3.3. CRUISE SHIPS AND OCEAN GOING SHIPS

6
7 SEC. 2. Section 39630 of the Health and Safety Code is
8 amended to read:

9 39630. The Legislature finds and declares that it is in the
10 interests of all Californians to protect the air quality from
11 increasing volumes of cruise ship engine and oceangoing ship
12 engine emissions.

13 SEC. 3. Section 39631 of the Health and Safety Code is
14 amended to read:

15 39631. (a) The state board shall enforce this chapter, and
16 may adopt standards, rules, and regulations for that purpose
17 pursuant to Section 39601.

18 (b) As used in this division, “cruise ship” means a commercial
19 vessel that has the capacity to carry 250 or more passengers for
20 hire. “Cruise ship” does not include the following:

21 (1) Vessels without berths or overnight accommodations for
22 passengers.

23 (2) Noncommercial vessels, warships, vessels operated by
24 nonprofit entities as determined by the Internal Revenue Service,
25 and vessels operated by the state, United States, or a federal
26 government.

27 (c) As used in this division, “oceangoing ship” means a
28 private, commercial, government, or military vessel calling on
29 California ports and meeting any one of the following criteria:

30 (1) A foreign trade vessel with an endorsement on its United
31 States Coast Guard certificate of documentation or registration
32 under the flag of another country.

1 (2) A vessel greater than or equal to 400 feet in length overall,
2 as defined in Section 679.2 of Title 50 of the Code of Federal
3 Regulations.

4 (3) A vessel of 10,000 gross tons or greater per the convention
5 measurement, as defined in Subpart B of Part 69 of Title 46 of
6 the Code of Federal Regulations.

7 (4) A vessel propelled by a marine diesel engine with a
8 ~~per-cylinder~~ *percylinder* displacement of 30 liters or more.

9 SEC. 4. Section 39632 of the Health and Safety Code is
10 amended to read:

11 39632. Commencing on January 1, 2005, a cruise ship, and
12 commencing on January 1, 2006, an oceangoing ship, shall not
13 conduct onboard incineration while operating within three miles
14 of the California coast, to the extent allowed by federal law.

15 SEC. 5. The heading of Division 38 (commencing with
16 Section 72400) of the Public Resources Code is amended to read:

17
18 DIVISION 38. LARGE PASSENGER VESSELS AND
19 OCEANGOING SHIPS
20

21 SEC. 6. Section 72400 of the Public Resources Code, as
22 amended by Section 1 of Chapter 764 of the Statutes of 2004, is
23 amended to read:

24 72400. (a) The Legislature finds and declares that the
25 protection and enhancement of the quality of the marine waters
26 of the state and marine sanctuaries requires that the release from
27 large passenger vessels and oceangoing ships of sewage sludge
28 and oily bilgewater, into the marine waters of the state and
29 marine sanctuaries, should be prohibited.

30 (b) The Legislature finds and declares that the protection and
31 enhancement of the quality of the marine waters of the state
32 requires that the release of sewage from large passenger vessels
33 and oceangoing ships into the marine waters of the state should
34 be prohibited.

35 (c) The Legislature intends to request the Congress of the
36 United States to amend the Federal Water Pollution Control Act
37 (33 U.S.C. Sec. 1251 and following) to provide California with
38 authority similar to that granted to the State of Alaska by Public
39 Law 106-554, to regulate the release of sewage from large

1 passenger vessels and oceangoing ships in the marine waters of
2 the state.

3 (d) This section shall remain in effect only until January 1,
4 2010, and as of that date is repealed, unless a later enacted
5 statute, that is enacted before January 1, 2010, deletes or extends
6 that date.

7 SEC. 7. Section 72400 of the Public Resources Code, as
8 added by Section 1.5 of Chapter 764 of the Statutes of 2004, is
9 amended to read:

10 72400. (a) The Legislature finds and declares that the
11 protection and enhancement of the quality of the marine waters
12 of the state and marine sanctuaries requires that the release from
13 large passenger vessels and oceangoing ships of sewage sludge
14 and oily bilgewater, into the marine waters of the state and
15 marine sanctuaries, *and the release from oceangoing ships of*
16 *sewage into the marine waters of the state*, should be prohibited.

17 (b) This section shall become operative on January 1, 2010.

18 SEC. 8. Section 72410 of the Public Resources Code is
19 amended to read:

20 72410. (a) Unless the context otherwise requires, the
21 definitions set forth in this section govern this division.

22 (b) “Board” means the State Water Resources Control Board.

23 (c) “Large passenger vessel” or “vessel” means a vessel of 300
24 gross registered tons or greater that is engaged in the carrying of
25 passengers for hire, excluding all of the following vessels:

26 (1) Vessels without berths or overnight accommodations for
27 passengers.

28 (2) Noncommercial vessels, warships, vessels operated by
29 nonprofit entities as determined by the Internal Revenue Service,
30 and vessels operated by the state, the United States, or a foreign
31 government.

32 (d) “Marine waters of the state” means “coastal waters” as
33 defined in Section 13181 of the Water Code.

34 (e) “Marine sanctuary” means marine waters of the state in the
35 Channel Islands National Marine Sanctuary, Cordell Bank
36 National Marine Sanctuary, Gulf of the Farallones National
37 Marine Sanctuary, or Monterey Bay National Marine Sanctuary.

38 (f) “Oceangoing ship” means a private, commercial,
39 government, or military vessel calling on California ports and
40 meeting any one of the following criteria:

1 (1) A foreign trade vessel with an endorsement on its United
2 States Coast Guard certificate of documentation or registration
3 under the flag of another country.

4 (2) A vessel greater than or equal to 400 feet in length overall,
5 as defined in Section 679.2 of Title 50 of the Code of Federal
6 Regulations.

7 (3) A vessel of 10,000 gross tons or greater per the convention
8 measurement, as defined in Subpart B of Part 69 of Title 46 of
9 the Code of Federal Regulations.

10 (4) A vessel propelled by a marine diesel engine with a
11 ~~per-cylinder~~ *percylinder* displacement of 30 liters or more.

12 (g) “Oil” has the meaning set forth in Section 8750.

13 (h) “Oily bilgewater” includes bilgewater that contains used
14 lubrication oils, oil sludge and slops, fuel and oil sludge, used oil,
15 used fuel and fuel filters, and oily waste.

16 (i) “Operator” has the meaning set forth in Section 651 of the
17 Harbors and Navigation Code.

18 (j) “Owner” has the meaning set forth in Section 651 of the
19 Harbors and Navigation Code.

20 (k) “Release” means discharging or disposing of wastes into
21 the environment.

22 (l) “Sewage” has the meaning set forth in Section 775.5 of the
23 Harbors and Navigation Code, including material that has been
24 collected or treated through a marine sanitation device as that
25 term is used in Section 312 of the Clean Water Act (33 U.S.C.
26 Sec. 1322) or material that is a byproduct of sewage treatment.

27 (m) “Sewage sludge” has the meaning set forth in Section
28 122.2 of Title 40 of the Code of Federal Regulations.

29 SEC. 9. Section 72420 of the Public Resources Code is
30 amended to read:

31 72420. (a) If the appropriate federal agencies approve an
32 application made pursuant to subdivision (a) of Section 72440, or
33 if the board determines that an application is not required, an
34 owner or operator of a large passenger vessel or oceangoing ship
35 may not release, or permit anyone to release, any sewage sludge
36 from the vessel into the marine waters of the state or a marine
37 sanctuary.

38 (b) An owner or operator of a large passenger vessel or
39 oceangoing ship may not release, or permit anyone to release,

1 any oily bilgewater from the vessel into the marine waters of the
2 state or a marine sanctuary.

3 SEC. 10. Section 72421 of the Public Resources Code, as
4 amended by Section 3 of Chapter 764 of the Statutes of 2004, is
5 amended to read:

6 72421. (a) If a large passenger vessel or oceangoing ship
7 releases sewage sludge, sewage, or oily bilgewater into the
8 marine waters of the state or a marine sanctuary, the owner or
9 operator shall immediately, but no later than 24 hours after the
10 release, notify the board of the release. The owner or operator
11 shall include all of the following information in the notification:

12 (1) Date of the release.

13 (2) Time of the release.

14 (3) Location of the release.

15 (4) Volume of the release.

16 (5) Source of the release.

17 (6) Remedial actions taken to prevent future releases.

18 (b) This section shall remain in effect only until January 1,
19 2010, and as of that date is repealed, unless a later enacted
20 statute, that is enacted before January 1, 2010, deletes or extends
21 that date.

22 SEC. 11. Section 72421 of the Public Resources Code, as
23 added by Section 4 of Chapter 764 of the Statutes of 2004, is
24 amended to read:

25 72421. (a) If a large passenger vessel or oceangoing ship
26 releases sewage sludge or oily bilgewater into the marine waters
27 of the state or a marine sanctuary, *or if an oceangoing ship*
28 *releases sewage into the marine waters of the state*, the owner or
29 operator shall immediately, but no later than 24 hours after the
30 release, notify the board of the release. The owner or operator
31 shall include all of the following information in the notification:

32 (1) Date of the release.

33 (2) Time of the release.

34 (3) Location of the release.

35 (4) Volume of the release.

36 (5) Source of the release.

37 (6) Remedial actions taken to prevent future releases.

38 (b) This section shall become operative on January 1, 2010.

39 SEC. 12. Section 72425.5 is added to the Public Resources
40 Code, to read:

1 72425.5. *If the Administrator of the United States*
2 *Environmental Protection Agency approves the application for*
3 *sewage made pursuant to subdivision (a) of Section 72440, or if*
4 *the board determines that an application is not required, an*
5 *owner or operator of an oceangoing ship may not release, or*
6 *permit anyone to release, any sewage from the vessel into the*
7 *marine waters of the state.*

8 ~~SEC. 12. Section 72425 of the Public Resources Code is~~
9 ~~amended to read:~~

10 ~~72425. (a) If the Administrator of the United States~~
11 ~~Environmental Protection Agency approves the application for~~
12 ~~sewage made pursuant to subdivision (a) of Section 72440, or if~~
13 ~~the board determines that an application is not required, an owner~~
14 ~~or operator of a large passenger vessel or oceangoing ship may~~
15 ~~not release, or permit anyone to release, any sewage from the~~
16 ~~vessel into the marine waters of the state.~~

17 ~~(b) This section shall remain in effect only until January 1,~~
18 ~~2010, and as of that date is repealed, unless a later enacted~~
19 ~~statute, that is enacted before January 1, 2010, deletes or extends~~
20 ~~that date.~~

21 SEC. 13. Section 72440 of the Public Resources Code, as
22 amended by Section 8 of Chapter 764 of the Statutes of 2004, is
23 amended to read:

24 72440. (a) (1) The board shall determine whether it is
25 necessary to apply to the federal government for the state to
26 prohibit the release of sewage or sewage sludge from large
27 passenger vessels and oceangoing ships into the marine waters of
28 the state or to prohibit the release of sewage sludge from large
29 passenger vessels and oceangoing ships into marine sanctuaries,
30 as described in subdivision (a) of Section 72420 ~~and Section~~
31 ~~72425~~, *subdivision (a) of Section 72425, and Section 72425.5.* If
32 the board determines that application is necessary for either
33 sewage or sewage sludge, or both, it shall apply to the
34 appropriate federal agencies, as determined by the board, to
35 authorize the state to prohibit the release of sewage or sewage
36 sludge, or both, as necessary, from large passenger vessels and
37 oceangoing ships into the marine waters of the state and, if
38 necessary, to authorize the state to prohibit the release of sewage
39 sludge from large passenger vessels and oceangoing ships into
40 marine sanctuaries.

(2) It is not the Legislature's intent to establish for the marine waters of the state a no discharge zone for sewage from all vessels, but only for a class of vessels.

(b) The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of sewage sludge and oily bilgewater, except under the circumstances specified in Section 72441, by large passenger vessels and oceangoing ships, in all of the waters that are in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary, that are not in the state waters.

(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 14. Section 72440 of the Public Resources Code, as added by Section 9 of Chapter 764 of the Statutes of 2004, is amended to read:

72440. (a) The board shall determine whether it is necessary to apply to the federal government for the state to prohibit the release of sewage sludge from large passenger vessels and oceangoing ships into the marine waters of the state or marine sanctuaries *or the release of sewage from oceangoing ships into the marine waters of the state*. If the board determines that application is necessary, it shall apply to the appropriate federal agencies, as determined by the board, to authorize the state to prohibit the release of sewage sludge from large passenger vessels and oceangoing ships into the marine waters of the state and marine sanctuaries *or the release of sewage from oceangoing ships into the marine waters of the state*.

(b) The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of sewage sludge and oily bilgewater, except under the circumstances specified in Section 72441, by large passenger vessels and oceangoing ships, in all of the waters that are in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary, that are not in the state waters *and the release of sewage from oceangoing ships into the marine waters of the state*.

1 (c) This section shall become operative on January 1, 2010.

2 SEC. 15. Section 72441 of the Public Resources Code is
3 amended to read:

4 72441. (a) This division does not apply to either of the
5 following:

6 (1) A large passenger vessel or oceangoing ship that operates
7 in the marine waters of the state solely in innocent passage.

8 (2) Discharges made for the purpose of securing the safety of
9 the large passenger vessel or oceangoing ship or saving life at
10 sea, if reasonable precautions are taken for the purpose of
11 preventing or minimizing the discharge.

12 (b) For the purposes of this section, a vessel is engaged in
13 innocent passage if its operation in state waters would constitute
14 innocent passage under either the Convention on the Territorial
15 Sea and Contiguous Zone, dated April 29, 1958, or the United
16 Nations Convention on the Law of the Sea, dated December 10,
17 1982.

18 SEC. 16. The heading of Division 39 (commencing with
19 Section 72500) of the Public Resources Code is amended to read:

20
21 DIVISION 39. PROHIBITED RELEASE OF WASTES
22 FROM LARGE PASSENGER VESSELS AND OCEANGOING
23 SHIPS
24

25 SEC. 17. Section 72500 of the Public Resources Code is
26 amended to read:

27 72500. The Legislature finds and declares all of the
28 following:

29 (a) Large passenger vessels and oceangoing ships produce
30 considerable amounts of waste, including graywater, sewage, and
31 other forms of solid and liquid waste.

32 (b) California is home to four of the 13 National Marine
33 Sanctuaries. These areas support some of the world's most
34 diverse marine ecosystems and are home to numerous mammals,
35 seabirds, fish, invertebrates, and plants.

36 (c) The release of waste from large passenger vessels and
37 oceangoing ships results in substantial damage to these valuable
38 resources.

(d) In order to protect public health and the environment, it is in the public interest to prohibit large passenger vessels and oceangoing ships from releasing waste into marine sanctuaries.

(e) The protection and enhancement of the quality of the marine waters of the state and marine sanctuaries requires that the release from large passenger vessels and oceangoing ships of hazardous waste and other waste, into the marine waters of the state and marine sanctuaries, should be prohibited.

SEC. 18. Section 72505 of the Public Resources Code is amended to read:

72505. Unless the context otherwise requires, the following definitions govern this division:

(a) “Board” means the State Water Resources Control Board.

(b) “Hazardous waste” has the meaning set forth in Section 25117 of the Health and Safety Code, but does not include sewage.

(c) “Graywater” means drainage from dishwasher, shower, laundry, bath, and washbasin drains, but does not include drainage from toilets, urinals, hospitals, or cargo spaces.

(d) “Large passenger vessel” or “vessel” means a vessel of 300 gross registered tons or greater that is engaged in the carrying of passengers for hire, excluding all of the following vessels:

(1) Vessels without berths or overnight accommodations for passengers.

(2) Noncommercial vessels, warships, vessels operated by nonprofit entities as determined by the Internal Revenue Service, and vessels operated by the state, the United States, or a foreign government.

(e) “Marine waters of the state” means “coastal waters” as defined in Section 13181 of the Water Code.

(f) “Marine sanctuary” means marine waters of the state in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, or Monterey Bay National Marine Sanctuary.

(g) “Medical waste” means medical waste subject to regulation pursuant to Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code.

(h) “Oceangoing ship” means a private, commercial, government, or military vessel calling on California ports and meeting any one of the following criteria:

1 (1) A foreign trade vessel with an endorsement on its United
2 States Coast Guard certificate of documentation or registration
3 under the flag of another country.

4 (2) A vessel greater than or equal to 400 feet in length overall,
5 as defined in Section 679.2 of Title 50 of the Code of Federal
6 Regulations.

7 (3) A vessel of 10,000 gross tons or greater per the convention
8 measurement, as defined in Subpart B of Part 69 of Title 46 of
9 the Code of Federal Regulations.

10 (4) A vessel propelled by a marine diesel engine with a
11 per-cylinder displacement of 30 liters or more.

12 (i) “Operator” has the meaning set forth in Section 651 of the
13 Harbors and Navigation Code.

14 (j) “Other waste” means photography laboratory chemicals,
15 dry cleaning chemicals, or medical waste.

16 (k) “Owner” has the meaning set forth in Section 651 of the
17 Harbors and Navigation Code.

18 (l) “Release” means discharging or disposing of wastes into
19 the environment.

20 (m) “Waste” means hazardous waste and other waste.

21 SEC. 19. Section 72520 of the Public Resources Code is
22 amended to read:

23 72520. An owner or operator of a large passenger vessel or
24 oceangoing ship may not release, or permit anyone to release,
25 from the vessel, into the marine waters of the state or a marine
26 sanctuary, either of the following:

27 (a) Hazardous waste.

28 (b) Other waste.

29 SEC. 20. Section 72521 of the Public Resources Code is
30 amended to read:

31 72521. If a large passenger vessel or oceangoing ship releases
32 hazardous waste or other waste into the marine waters of the state
33 or a marine sanctuary, or releases graywater into the marine
34 waters of the state, the owner or operator shall immediately, but
35 no later than 24 hours after the release, notify the board of the
36 release. The owner or operator shall include all of the following
37 information in the notification:

38 (a) Date of the release.

39 (b) Time of the release.

40 (c) Location of the release.

1 (d) Volume of the release.

2 (e) Source of the release.

3 (f) Remedial actions taken to prevent future releases.

4 SEC. 21. Section 72525 of the Public Resources Code is
5 amended to read:

6 72525. The owner or operator of a large passenger vessel or
7 oceangoing ship shall not release, or permit anyone to release,
8 graywater from the vessel into the marine waters of the state.

9 SEC. 22. Section 72540 of the Public Resources Code is
10 amended to read:

11 72540. (a) This division does not apply to a large passenger
12 vessel or oceangoing ship that operates in the marine waters of
13 the state solely in innocent passage.

14 (b) For purposes of this section, a vessel is engaged in
15 innocent passage if its operation in state waters would constitute
16 innocent passage under either the Convention on the Territorial
17 Sea and Contiguous Zone, dated April 29, 1958, or the United
18 Nations Convention on the Law of the Sea, dated December 10,
19 1982.

20 SEC. 23. Section 72542 of the Public Resources Code is
21 amended to read:

22 72542. The board shall request the appropriate federal
23 agencies, as determined by the board, to prohibit the release of
24 waste by large passenger vessels or oceangoing ships in all of the
25 waters in the Channel Islands National Marine Sanctuary,
26 Cordell Bank National Marine Sanctuary, Gulf of the Farallones
27 National Marine Sanctuary, and Monterey Bay National Marine
28 Sanctuary; and, request, if necessary, approval of the state's
29 prohibition of the release of waste in the marine sanctuaries.

30
31
32 **CORRECTIONS:** _____

33 **Text - Pages 3, 5, 7, and 11.**
34 _____